

BID FORM

MISSOURI DEPARTMENT OF TRANSPORTATION
GENERAL SERVICES
2309 Barrett Station Road
Ballwin, MO 63021

REQUEST NO.	D611-111-R7
DATE	January 18, 2011
PAGE NO.	1
NO. OF PAGES	15

SEALED BIDS, SUBJECT TO THE ATTACHED CONDITIONS WILL
BE RECEIVED AT THIS OFFICE UNTIL

10:00 A.M., CST, February 1, 2011

AND THEN PUBLICLY OPENED AND READ FOR FURNISHING THE
FOLLOWING SUPPLIES OR SERVICES

**BIDS TO BE BASED F.O.B. MISSOURI DEPARTMENT OF
TRANSPORTATION**

Submit net bid as cash discount stipulations will not be considered

F.O.B. Destination

Per District 6 Purchase Orders

BUYER:	Stephanie Austin Rashid, General Services Technician	MoDOT web site: http://www.modot.mo.gov/business/contractor_resources/Commodities.htm
BUYER EMAIL:	Stephanie.AustinRashid@modot.mo.gov	BUYER TELEPHONE: (314) 301-1439

Description

Bush-Whacker Brush Hog Mower Parts
ALL BIDS SHOULD BE EXTENDED AND TOTALED

Parts listed on the following pages must be quoted as being the same or equivalent to mower parts for 15' and 6' Bush-Whacker Brush Hog Mowers.

Delivery time could be a factor with final award. **Deliveries must be shipped in full.** No partial deliveries, delivery time listed must reflect turn around time for all items shipped complete.

PLEASE NOTE: The Missouri Department of Transportation, District 6, total purchases for 2011, could be fewer OR greater than quantities listed. Pricing should remain in effect through December 31, 2011.

Parts listed with "0" quantity are not needed at this time and should not be quoted; however, if these parts or other parts not listed are needed at a later time, the awarded vendor will price and furnish any and all such requests.

This bid will be awarded as "all or nothing." All parts listed with quantities must be priced or bid will be rejected.

(SEE ATTACHED FOR CONDITIONS AND INSTRUCTIONS)

In compliance with the above invitation for bids, and subject to all conditions thereof, the undersigned bidder agrees to furnish and deliver any or all the items on which prices were bid within 30 days after receipt of formal purchase order.

Date: _____
Telephone No.: _____
Fax No.: _____
Federal I.D. No. _____
Email Address: _____

Firm Name: _____
Address: _____
By (Signature): _____
Type/Print Name _____
Title: _____

Is your firm MBE certified? ☐ Yes ☐ No

Is your firm WBE certified? ☐ Yes ☐ No

1.0 Introduction.

1.1 MoDOT is seeking bids from qualified bidders to provide **Bush-Whacker Brush Hog Mower Parts**.

1.2 It is the bidders responsibility to access MoDOT's website in order to obtain any and all addenda(s) issued during the course of the RFB process.

http://www.modot.mo.gov/business/contractor_resources/Commodities.htm

2.0 Additional Considerations.

2.1 Total Price to remain firm, fixed upon Award and Notice to Proceed.

2.2 Total Price quoted shall be a total bid price to include ALL applicable costs such as, but not limited to fees, permits, fuel cost, etc.

2.3 Submit net bid, as cash discounts will not be considered.

3.0 Award.

3.1 Award of this bid/quote/proposal will be made on an "All or Nothing" basis using the "lowest and best" principle of award.

3.2 In the event of tie low bids, MoDOT reserves the right to establish the method used in determining the award.

4.0 Bid Submission.

4.1 Each bid must be mailed in a sealed package to Ms. Stephanie Austin Rashid, General Services Procurement Unit, 2309 Barrett Station Road, Ballwin, MO 63021, or hand-delivered in a sealed package to the General Services Procurement Office located at 2309 Barrett Station Road, Ballwin, MO 63021. All questions regarding the RFB shall be submitted to the RFB Coordinator. All bids must be received at the General Services Procurement Office located at 2309 Barrett Station Road, no later than **10:00 a.m., CST, February 1, 2011.**

RFB Coordinator:

**Stephanie Austin Rashid, General Services Technician
Missouri Department of Transportation
2309 Barrett Station Road
Ballwin, MO 63021
PHONE: (314) 301-1439; FAX: (314) 301-1437**

4.2 All bids must be received in a sealed package clearly marked "**D611-111-R7 "Bush-Whacker Brush Hog Mower Parts"**".

4.3 **MHTC reserves the right to reject any and all bids for any reason whatsoever**, and to accept or reject any itemS thereon and to waive technicalities. All bids must be signed with the firm name and by a responsible officer or employee. Obligations assumed by such signature must be fulfilled.

5.0 Open Competition/Request for Bid Document.

5.1 It shall be the bidder's responsibility to ask questions, request changes or clarification, or otherwise advise MoDOT if any language, specifications or requirements of an RFB appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the RFB to a single source. Any and all communication from bidders regarding specifications, requirements, competitive bid process, etc., must be directed to the buyer from MoDOT, unless the RFB specifically refers the bidder to another contact. Such communication should be received at least five (5) working days prior to the official bid opening date.

COMPLIANCE WITH BID REQUIREMENTS:

Failure to comply with the requirements published in this bid may result in the bid being subject to rejection.

NON-EXCLUSIVITY:

The Missouri Department of Transportation reserves the right to obtain like or similar services of this or other manufacturers when use of such products is deemed in the best interest of MoDOT.

VENDOR NAME REGISTRATION:

On all bid documents, the bidder must use the firm name under which he/she is registered to do business in the state of Missouri. The bidder must ensure that his/her firm name is registered with the office of the Secretary of State.

ADDITIONAL DOCUMENT SUBMITTAL REQUIREMENTS:

For the bid to be considered the four (4) attachments "Preference in Purchasing Products", "Missouri Service-Disabled Veteran Business Preference, Identity of Bidder and "Missouri Domestic Product Procurement Act" must be submitted to this office prior to any contract being awarded for this bid.

The Bidder understands that this agreement involves state funds and the bidder awarded the contract will be required to comply with the Executive Order 94-03 of the Governor of the State of Missouri dated January 14, 1994. This order stipulates that there shall be no discriminatory employment practices by the contractor or his subcontractors, if any, based on race, color, religion, creed, national origin, sex or age. The contractor or his subcontractors, if any, shall give written notice of their commitments under this clause to any labor union with which they have bargaining or other agreements.

Vendor Note: Bidders are encouraged to obtain minority business enterprise (MBE) and women business enterprise (WBE) participation in this work through the use of subcontractors, suppliers, joint ventures, or other arrangements that afford meaningful participation for M/WBEs. Bidders are encouraged to obtain 10% MBE and 5% WBE participation.

Pricing Pages are Below

Pricing Page

Estimated Quantity (Each)	DESCRIPTION (including size and/or part #'s)		UNIT PRICE	UNIT PRICE EXTENSION	DELIVERY TIME
The following items must be quoted as being the same or equivalent to the parts described below. The parts below are for Bush-Whacker 15' and 6' Brush Hog Mowers.					
18	MO-1420	Washer # 1420			
18	MO-1421	Nut # 1421			
	MO-1422	Cotter Pin # 1422			
	MO-1706	Clutch Body			
	MO-1710	Bushing			
	MO-1711	Clutch Disk			
	MO-1716	Inner Plate			
	MO-1717	Notched Plate			
	MO-1718	Pressure Plate			
	MO-1722	Shield Bolts			
147	MO-2105	Lock Nut # 2105			
155	MO-2106	Washer # 2106			
30	MO-2201	Skid Shoe Right # 2201			
26	MO-2202	Skid Shoe Left # 2202			
	MO-2303	Bolt			
	MO-100CC	Nut			
	MO-2311	Nut			
2	MO-2312	Clevis			
3	MO-2320	Rear Level Rod (short) # 2320			
2	MO-2321	Turnbuckle			
12	MO-2327	Shock Absorbers			
2	MO-2328	Center Axle Arm			
6	MO-50CZ	Nuts for Shock Absorber			
6	MO-5100	Washers for Shock Absorbers			
	MO-50200	Skid Shoe Bolts			
	MO-50CZ	Skid Shoe Nuts			
	MO-5100	Skid Shoe Washers			
	MO-2354	Pin			
4	MO-2355	Ratchet Jack Assy.			
1	MO-2358	Left Wing Axle Arm			
1	MO-2360	Right Wing Axle Arm			
2	MO-2400	Spring			
	MO-2426	Complete Shield Assembly Wing			
13	MO-2431	Cross Kit			
2	MO-2448	Wheel Hub Complete w/Bearings			
16	MO-2456	Dust Cap # 2456			
2	MO-2510	Shield Face Plate			
2	MO-2517	Shield Cover			
4	MO-2531	Washer			
	MO-2567	Complete Shield Assembly Center			
6	MO-2624	Bolt			

Pricing Page

Estimated Quantity (Each)	DESCRIPTION (including size and/or part #'s)		UNIT PRICE	UNIT PRICE EXTENSION	DELIVERY TIME
	MO-2626	Bolt			
	MO-2627	Bolt			
6	MO-2638	Nut			
	MO-2662	Wing Cylinder			
	MO-2707	Gear Box Left Wing # 2707			
	MO-50LW	Washer # 2733			
	MO-50150	Bolt # 2734			
4	MO-2735	Seal – Wing Gear Box			
4	MO-2751	Seal – Center Gear Box			
	MO-2758	Gear Box Right Wing # 2758			
4	MO-2964	Level Rod Assembly			
	MO-2968	Bolt			
	MO-2972	Front Level Rod			
7	MO-2980C	Chain Guard # 2980			
	MO-2981C	Chain Guard, DBL, Curtain (F)			
11	MO-2982C	Chain Guard # 2982			
5	MO-2983C	Chain Guard # 2983			
9	MO-2986C	Chain Guard # 2986			
9	MO-2987C	Chain Guard # 2987			
11	MO-2990C	Chain Guard # 2990			
9	MO-2991C	Chain Guard # 2991			
5	MO-2994C	Chain Guard # 2994			
11	MO-2996C	Chain Guard # 2996			
8	MO-2997C	Chain Guard # 2997			
5	MO-3000C	Chain Guard # 3000			
5	MO-3001C	Chain Guard # 3001			
4	MO-3012	Nut			
20	MO-3039	Skid Shoe Center # 3039			
1	MO-3040	Chain Guard, DBL, Curtain			
	MO-3046	Wing Drive Shaft Complete # 3046			
5	MO-3092	Center Stump Jumper			
104	MO-3093	Blade CCW Right Wing and Center			
60	MO-3094	Blade CW Left Wing # 3094			
128	MO-3095	Bolt (Hex Shoulder) # 3095			
128	MO-3096	Washer Hex # 3096			
10	MO-3098	Wing Blade Bar with Stump Jumper			
2	MO-3170	Cross Kit			
2	MO-3950	Main Drive Shaft # 3101			
	MO-3232	Tongue # 3232			
	MO-3233	Swivel # 3233			
1	MO-3265	Spring Guide			
3	MO-3269	Ratchet Jack			

Pricing Page

Estimated Quantity (Each)	DESCRIPTION (including size and/or part #'s)		UNIT PRICE	UNIT PRICE EXTENSION	DELIVERY TIME
6	MO-14052A	Aircraft rib Goodyear Tires 26x8.0x14 (TIRES ONLY)			
6	MO-14053	26" Tire Tube			
6	MO-488033	28" Aircraft Tire			
	MO-14053	28" Tire Tube			
2	MO-3312	Swivel End			
2	MO-3353	Plunger			
3	MO-3354	Left Wing Axle Arm # 3354			
3	MO-3355	Right Wing Axle Arm #3355			
1	MO-3358	Dual Spindle # 3358			
4	MO-3359	Spindle Washer # 3359			
10	MO-3372	Spindle Nut # 3378			
1	MO-3368	Swivel Only			
7	MO-3369	Swivel Bolt			
	MO-3449	Washer			
10	MO-3454	Spring # 3454			
1	MO-3605	Single Chain Curtain			
1	MO-3660	Axle Arm # 3660			
8	MO-3661	Bolt # 3661			
1	MO-3765	Center Chain Curtain			
1	MO-3769	Center Chain Curtain Right			
1	MO-3909	Center Chain Curtain Left			
8	MO-3916	Main Drive Shaft Cross Kit			
8	MO-3941	Wing Drive Shaft Cross Kit			
8	MO-3957	Intermediate Cross Kit			
4	MO-3959	Flange			
1	MO-4005	Wing Drive Shaft Assy. Complete			
	MO-4006	Quick Disconnect Yoke			
4	MO-4096	Nut # 4096			
	MO-4143	Spring			
	MO-0510BH	Laminated Wheel			
	MO-8142040	700 x 15 Tire Tube			
	00764721	Recap Air Plain Tire & Wheel			
40	MO-120111	Blade Bolts (6' Brush Hog)			
36	MO-126101	Blade (6' Brush Hog)			

REMINDER: The Missouri Department of Transportation, District 6, total purchases for 2011, could be fewer OR greater than quantities listed above. Pricing should remain in effect through December 31, 2011.

TOTAL ORDER EXTENSION:

VENDOR NAME:

TITLE:

DATE:

SIGNATURE: _____

DATE: _____

COMPANY: _____

PREFERENCE IN PURCHASING PRODUCTS

DATE: _____

The bidders attention is directed to Section 34.076 RSMo 2000 which gives preference to Missouri corporations, firms, and individuals when letting contracts or purchasing products.

Bids/Quotations received will be evaluated on the basis of this legislation.

All vendors submitting a bid/quotation must furnish ALL information requested below.

FOR CORPORATIONS:

State in which incorporated: _____

FOR OTHERS:

State of domicile: _____

FOR ALL VENDORS:

List address of Missouri offices or places of business:

THIS SECTION MUST BE COMPLETED AND SIGNED:

FIRM NAME: _____

ADDRESS: _____

CITY: _____ **STATE:** _____ **ZIP:** _____

BY (signature required): _____

Federal Tax I.D. #: _____ **if no Federal Tax I.D. # - list Social Security #:** _____

NOTE: For bid/quotation to be considered, the "Preference in Purchasing Products" form must be on file in the General Services (Procurement) Division and must be dated in the current calendar year.

MISSOURI SERVICE-DISABLED VETERAN BUSINESS PREFERENCE

By virtue of statutory authority, RSMo 34.074, a preference will be given all contracts for the performance of any job or service to service-disabled veteran business either doing business as Missouri firms, corporations, or individuals; or which maintain Missouri offices or places of business, when the quality of performance promised is equal or better and the price quoted is the same or less or whenever competing bids, in their entirety, are comparable.

Definitions:

Service-Disabled Veteran is defined as any individual who is disabled as certified by the appropriate federal agency responsible for the administration of veterans' affairs.

Service-Disabled Veteran Business is defined as a business concern:

- a. Not less than fifty-one (51) percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than fifty-one (51) percent of the stock of which is owned by one or more service-disabled veterans; and
- b. The management and daily business operations of which are controlled by one or more service-disabled veterans.

If an offeror meets the definitions of a service-disabled veteran and a service-disabled veteran business as defined in 34.074 RSMo and is either doing business as a Missouri firm, corporation, or individual; or maintains a Missouri office or place of business, the offeror **must** provide the following with the proposal in order to receive the Missouri service-disabled veteran business preference over a non-Missouri service-disabled veteran business when the quality of performance promised is equal or better and the price quoted is the same or less or whenever competing proposals, in their entirety, are comparable:

- a. A copy of a letter from the Department of Veterans Affairs (VA), or a copy of the offeror's discharge paper (DD Form 214, Certificate of Release or Discharge from Active Duty) from the branch of service the offeror was in, stating that the offeror has a service-connected disability rating ranging from 0 to 100% disability; and
- b. A completed copy of this exhibit

(NOTE: For ease of evaluation, please attach copy of the above-referenced letter from the VA or a copy of the offeror's discharge paper to this Exhibit.)

By signing below, I certify that I meet the definitions of a service-disabled veteran and a service-disabled veteran business as defined in 34.074 RSMo and that I am either doing business as a Missouri firm, corporation, or individual; or maintain Missouri offices or places of business at the location(s) listed below.

Veteran Information

Business Information

Service-Disabled Veteran's Name, (Please Print)

Service-Disabled Veteran Business Name

Service-Disabled Veteran's Signature

Missouri Address of Service-Disabled Veteran Business

SIGNATURE AND IDENTITY OF BIDDER

The undersigned states that the correct LEGAL NAME and ADDRESS of (1) the individual Bidder, (2) each partner or joint venture (whether individuals or corporations, and whether doing business under a fictitious name), or (3) the corporation (with the state in which it is incorporated) are shown below; that (if not signing with the intention of binding himself to become the responsible and sole contractor) he is the agent of, and duly authorized in writing to sign for the Bidder or Bidders; and that he is signing and executing this (as indicated in the proper spaces below) as the proposal of a

() sole individual

() partnership

() joint venture

() corporation, incorporated under laws of state of _____

Dated _____.

Name of individual, all partners,
or joint ventures:

Address of each:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

doing business under the name of:

Address of principal place of business in Missouri

(If using a fictitious name, show
this name above in addition
to legal names)

(If a corporation, show its name above)

ATTEST: (SEAL)

Secretary

Title

(NOTE: If the Bidder is doing business under a FICTITIOUS NAME, the Proposal shall be executed in the legal name of the individual, partners, joint ventures, or corporation, with the legal address shown, and REGISTRATION OF FICTITIOUS NAME filed with the Secretary of State, as required by Sections 417.200 to 417.230, RS Mo. If the Bidder is a CORPORATION NOT ORGANIZED UNDER THE LAWS OF MISSOURI, it shall procure a CERTIFICATE OF AUTHORITY TO DO BUSINESS IN MISSOURI, as required by Section 351.570 and following, RS Mo. A CERTIFIED COPY of such Registration of Fictitious Name or Certificate of Authority to do Business in Missouri shall be filed with the Missouri Highways and Transportation Commission, as required by the Standard specifications, Sec 102.6.6 and 102.6

MISSOURI DOMESTIC PRODUCTS PROCUREMENT ACT

The bidder's attention is directed to the Missouri Domestic Products Procurement Act, Sections 34.350 to 34.359, RsMO, which requires all manufactured goods or commodities used or supplied in the performance of this contract or any subcontract to be manufactured or produced in the United States.

Section 34.355, RsMO, requires the vendor or contractor to certify his compliance with Section 34.353 and, if applicable, Section 34.359, RsMO, at the time of bidding **and** prior to payment. Failure to comply with Section 34.353, RsMO, during the performance of the contract **and** to provide certification of compliance prior to payment will result in nonpayment for those goods or commodities.

Section 34.353.2, RsMO, specifies that it does not apply where the total contract is less than Twenty-Five Thousand Dollars (\$25,000.00). If your total bid is Twenty-Five Thousand Dollars (\$25,000.00) or more, you **must** complete this form as directed below.

Failure to complete and return this document with this bid will cause the State to presume the manufactured goods or products listed in the bid are not manufactured or produced in the United States, and the bid will be evaluated on that basis. Please read the certification appearing below on this form.

- [] If all the goods or products specified in the attached bid which the bidder proposes to supply to the State shall be manufactured or produced in the "United States" as defined in Section 34.350, RsMO, check the box at left.
- [] If only one item of any particular goods or products specified in the attached bid is manufactured or produced in the "United States" as defined in Section 34.350, RsMO, check the box at left and list the items (or item number) here:
- [] If any or all of the goods or products specified in the attached bid which the bidder proposes to supply to the State are **not** manufactured or produced in the "United States" as defined in Section 34.350, RsMO, then: (a) check the box at left; (b) list below, by item (or item number), the country other than the United States where each good or product is manufactured or produced; and (c) check the boxes to the left of the paragraphs below if applicable and list the corresponding items (or item numbers) in the spaces provided.

Item (or item number)	Location Where Item Manufactured or Produced

(attach an additional sheet if necessary)

- [] The following specified goods or products cannot be manufactured or produced in the United States in sufficient quantities or in time to meet the contract specifications. Items (or item numbers): _____

- [] The following specified goods or products must be treated as manufactured or produced in the United States, in accordance with an existing treaty, law, agreement, or regulation of the United States, including a treaty between the United States and any foreign country regarding export-import restrictions or international trade. Items (or item numbers): _____

CERTIFICATION

By submitting this document, completed as directed above, with a bid, the bidder certifies under penalty of making false declaration (Section 575.060, RsMO) that the information contained in this document is true, correct and complete, and may be relied upon by the State in determining the bidders qualifications under and in compliance with the Missouri Domestic Products Procurement Act.

The bidder's failure to complete and return this document with the bid as directed above will cause the State to presume the manufactured goods or products listed in the bid are not manufactured or produced in the United States, and the bid will be evaluated on that basis pursuant to Section 34.353.3(2), RsMO.

STANDARD SOLICITATION PROVISIONS

- a. The Missouri Department of Transportation (MoDOT) reserves the right to reject any or all bids/quotes/proposals, and to accept or reject any items thereon, and to waive technicalities. In case of error in the extension of prices in the bid/quote/proposal, unit prices will govern.
- b. All bids/quotes/proposals must be signed with the firm name and by a responsible officer or employee. Obligations assumed by such signature must be fulfilled.
- c. By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown, within the State of Missouri.
- d. Time of delivery is a part of the consideration and, if not otherwise stated in the solicitation documents, must be stated in definite terms by the Bidder/Offeror and must be adhered to. If time varies on different items, the Bidder/Offeror shall so state.
- e. If providing bids/quotes/proposals for commodities, the Bidder/Offeror will state brand or make on each item. If bidding or proposing other than the make, model or brand specified, the manufacturer's name, model number or catalog number must be given.
- f. **For bids/proposals of \$25,000 or more**, no bids/proposals by telephone, telegram or telefax will be accepted.
- g. The date specified for the returning of bids/quotes/proposals is a firm deadline and all bids/quotes/proposals must be received at the designated office by that time. The Department does not recognize the U.S. Mail, Railway Express Agency, Air Express, or any other organization, as its agent for purposes of accepting proposals. All proposals arriving at the designated office after the deadline specified will be rejected.

GENERAL TERMS AND CONDITIONS

General Performance

- a. Bidders are encouraged to obtain minority business enterprise (MBE) and women business enterprise (WBE) participation in this work through the use of subcontractors, suppliers, joint ventures, or other arrangements that afford meaningful participation for M/WBEs. Bidders are encouraged to obtain 10% MBE and 5% WBE participation.
- b. This work is to be performed under the general supervision and direction of the Missouri Department of Transportation (MoDOT) and, if awarded any portion of the work, the Contractor agrees to furnish at his own expense all labor and equipment required to complete the work, it being expressly understood that this solicitation is for completed work based upon the price(s) specified and is not a solicitation for rental of equipment or employment of labor by MoDOT, and MoDOT is to have no direction or control over the employees used by the Contractor in performance of the work.

Deliveries

- a. Unless otherwise specified on the solicitation documents or purchase order, suppliers shall give at least 24 hours advance notice of each delivery. Delivery will only be received between the hours of 8:00 a.m. to 3:00 p.m., Monday through Friday. Material arriving after 3:00 p.m. will not be unloaded until the following workday. No material will be received on Saturday, Sunday or state holidays.
- b. If the prices bid herein include the delivery cost of the material, the Contractor agrees to pay all transportation charges on the material as FOB - Destination. Freight costs must be included in the unit price bid and not listed as a separate line item.
- c. Any demurrage is to be paid by the Contractor direct to the railroad or carrier.

Nondiscrimination

- a. The Contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- b. All solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of the Contractor's obligations under this contract and the Regulations, will be relative to nondiscrimination on the grounds of race, color, or national origin.
 - 1) Sanctions for Noncompliance: In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, MoDOT shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - i. withholding of payments to the Contractor under the contract until the Contractor complies, and/or,
 - ii. cancellation, termination or suspension of the contract, in whole or in part.

Contract/Purchase Order

- a. By submitting a bid/quote/proposal, the Bidder/Offeror agrees to furnish any and all equipment, supplies and/or services specified in the solicitation documents, at the prices quoted, pursuant to all requirements and specifications contained therein.
- b. A binding contract shall consist of: (1) the solicitation documents, amendments thereto, and/or Best and Final Offer (BAFO) request(s) with any changes/additions, (2) the Contractor's proposal and/or submitted pricing, and (3) the MHTC's acceptance of the proposal and/or bid by purchase order or post-award contract.
- c. A notice of award does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services, the Contractor must receive a properly authorized purchase order and/or notice to proceed.

- d. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein. Any change, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the Contractor and the duly authorized representative of the MHTC, by a modified purchase order prior to the effective date of such modification. The Contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification.

Subcontracting

- a. It is specifically understood that no portion of the material or any interest in the contract, shall be subcontracted, transferred, assigned or otherwise disposed of, except with the written consent of MoDOT. Request for permission to subcontract or otherwise dispose of any part of the work shall be in writing to MoDOT and accompanied by documentation showing that the organization which will perform the work is particularly experienced and equipped for such work.
- b. Consent to subcontract or otherwise dispose of any portion of the work shall not be construed to relieve the Contractor of any responsibility for the production and delivery of the contracted work and the completion of the work within the specified time.
- c. All payments for work performed by a subcontractor shall be made to the Contractor to whom the contract was awarded and the purchase order issued.

Invoicing and Payment

- a. MoDOT is exempt from paying Missouri Sales Tax, Missouri Use Tax and Federal Excise Tax. However, the Contractor may themselves be responsible for the payment of taxes on materials they purchase to fulfill the contract. A Project Tax Exemption Certificate will be furnished to the successful Bidder/Officer upon request if applicable.
- b. Each invoice should be itemized in accordance with items listed on the purchase order and/or contract. The statewide financial management system has been designed to capture certain receipt and payment information. Therefore, each invoice submitted must reference the purchase order number and must be itemized in accordance with items listed on the purchase order. Failure to comply with this requirement may delay processing of invoices for payment.
- c. Unless otherwise provided for in the solicitation documents, payment for all equipment, supplies, and/or services required herein shall be made in arrears. The Missouri Highways and Transportation Commission (MHTC) shall not make any advance deposits.
- d. The MHTC assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any authorized quantity is subject to the MHTC's rejection and shall be returned at the Contractor's expense.
- e. The MHTC reserves the right to purchase goods and services using the state-purchasing card.

Applicable Laws and Regulations

- a. The contract shall be construed according to the laws of the State of Missouri. The Contractor shall comply with all local, state, and federal laws and regulations related to the performance of the contract.
- b. The Contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri and other regulatory agencies, as may be required by law or regulations. Prior to the issuance of a purchase order and/or notice to proceed, the Contractor may be required to submit to MoDOT a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.
 - 1) Prior to the issuance of a purchase order and/or notice to proceed, all **out-of-state** Contractors **providing services** within the state of Missouri must submit to MoDOT a copy of their current Transient Employer Certificate from the Department of Revenue, in addition to a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.
- c. The exclusive venue for any legal proceeding relating to or arising, out of the contract shall be in the Circuit Court of Cole County, Missouri.

Executive Order

- a. The Contractor shall comply with all the provisions of Executive Order 07-13, issued by the Honorable Matt Blunt, Governor of Missouri, on the sixth (6th) day of March, 2007. This Executive Order, which promulgates the State of Missouri's position to not tolerate persons who contract with the state engaging in or supporting illegal activities of employing individuals who are not eligible to work in the United States, is incorporated herein by reference and made a part of this Agreement.
 - 1) "By signing this Agreement, the Contractor hereby certifies that any employee of the Contractor assigned to perform services under the contract is eligible and authorized to work in the United States in compliance with federal law."
 - 2) In the event the Contractor fails to comply with the provisions of the Executive Order 07-13, or in the event the Commission has reasonable cause to believe that the contractor has knowingly employed individuals who are not eligible to work in the United States in violation of federal law, the Commission reserves the right to impose such contract sanctions as it may determine to be appropriate, including but not limited to contract cancellation, termination or suspension in whole or in part or both.

- 3) The Contractor shall include the provisions of this paragraph in every subcontract. The Contractor shall take such action with respect to any subcontract as the Commission may direct as a means of enforcing such provisions, including sanctions for noncompliance.

Preferences

- a. In the evaluation of bids/quotes/proposals, preferences shall be applied in accordance with Chapter 34 RSMo. Contractors should apply the same preferences in selecting subcontractors.
- b. By virtue of statutory authority, RSMo. 34.076 and 34.350 to 34.359, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the State of Missouri. Such preference shall be given when quality is equal or better and delivered price is the same or less.
 - 1) If attached, the document entitled **"PREFERENCE IN PURCHASING PRODUCTS"** should be completed and returned with the solicitation documents.
 - 2) If attached, the document entitled **"MISSOURI DOMESTIC PRODUCTS PROCUREMENT ACT"** should be completed and returned with the solicitation documents. **Applies if bid is Twenty-Five Thousand Dollars (\$25,000.00) or more.**
- c. By virtue of statutory authority, RSMo 34.074, a preference will be given all contracts for the performance of any job or service to service-disabled veteran business either doing business as Missouri firms, corporations, or individuals; or which maintain Missouri offices or places of business, when the quality of performance promised is equal or better and the price quoted is the same or less or whenever competing bids, in their entirety, are comparable.
 - 1) If attached, the document entitled **"MISSOURI SERVICE-DISABLED VETERAN PREFERENCE"** should be completed and returned with the solicitation documents.
- d. In the event of a tie of low bids, the MHTC reserves the right to establish the method to be used in determining the award

Remedies and Rights

- a. No provision in the contract shall be construed, expressly or implied, as a waiver by the MHTC of any existing or future right and/or remedy available by law in the event of any claim by the MHTC of the Contractor's default or breach of contract.
- b. The Contractor agrees and understands that the contract shall constitute an assignment by the Contractor to the MHTC of all rights, title and interest in and to all causes of action that the Contractor may have under the antitrust laws of the United States or State of Missouri for which causes of action have accrued or will accrue as the result of or in relation to the particular equipment, supplies, and/or services purchased or produced by the Contractor in the fulfillment of the contract with the MHTC.
- c. In the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request MoDOT to enter into such litigation to protect the interests of the MHTC, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

Cancellation of Contract

- a. The MHTC may cancel the contract at any time for a material breach of contractual obligations or for convenience by providing the Contractor with written notice of cancellation. Should the MHTC exercise its right to cancel the contract for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the Contractor.
- b. If the MHTC cancels the contract for breach, the MHTC reserves the right to obtain the equipment, supplies, and/or services to be provided pursuant to the contract from other sources and upon such terms and in such manner as the MHTC deems appropriate and charge the Contractor for any additional costs incurred thereby.

Bankruptcy or Insolvency

- a. Upon filing for any bankruptcy or insolvency proceeding by or against the Contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assigned the benefit or creditors, the Contractor must notify MoDOT immediately. Upon learning of any such actions, the MHTC reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the Contractor responsible for damages.

Inventions, Patents, and Copyrights

- a. The Contractor shall defend, protect, and hold harmless the MHTC, its officers, agents, and employees against all suits of law or in equity resulting from patent and copyright infringement concerning the Contractor's performance or products produced under the terms of the contract.

Inspection and Acceptance

- a. No equipment, supplies, and/or services received by MoDOT pursuant to a contract shall be deemed accepted until MoDOT has had reasonable opportunity to inspect said equipment, supplies, and/or services.
- b. All equipment, supplies, and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective or which do not conform to any warranty of the Contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.

- c. The MHTC reserves the right to return any such rejected shipment at the Contractor's expense for full credit or replacement and to specify a reasonable date by which replacements must be received.
- d. The MHTC's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the MHTC may have.

Warranty

- a. The Contractor expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description which was furnished to or adopted by MoDOT, (2) be fit and sufficient for the purpose expressed in the solicitation documents, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect.
- b. Such warranty shall survive delivery and shall not be deemed waived either by reason of the MHTC's acceptance of or payment for said equipment, supplies, and/or services.

Status of Independent Contractor

- a. The Contractor represents itself to be an independent Contractor offering such services to the general public and shall not represent itself or its employees to be an employee of the MHTC. Therefore, the Contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers' compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save and hold the MHTC, its officers, agents and employees harmless from and against any and all losses (including attorney fees) and damage of any kind related to such matters.

Indemnification

- a. The Offeror shall defend, indemnify and hold harmless the Commission, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the Offeror's performance of its obligations under this Agreement.